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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,049	01/22/2002	Patrick M. Lauer	PAT 51663-2	1738

26123 7590 06/18/2003

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CANADA

EXAMINER

PICKETT, JOHN G

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 06/18/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/051,049

Applicant(s)

LAUER, PATRICK M.

Examiner

Gregory Pickett

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 January 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of: .
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.                      6) ☐ Other: .

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

1. Claims 1, and 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kehl (US 4,649,813) in view of Hart (US 277,718) and Dubery et al (US 4,032,037).

Regarding claim 1, Kehl discloses an enclosure (10) with a cavity (12, 14) a lid (18) sized to cover cavity (14) and pivot means (32). Kehl meets all limitations claimed by the applicant except for a securing means entailing a unitary lip on the backside of the closure and magnetic holder.

Hart discloses a unitary lip on the backside of the closure (as shown, Figure 1). It would have been obvious to one of ordinary skill in the art at the time the invention

was made to provide the enclosure of Kehl with a unitary backside as taught by Hart in order to form a more stable resting location.

The enclosure of Kehl-Hart does not disclose a magnetic holder.

Dubery et al discloses an enclosure (10, 12) with a magnetic means (40, 34) for securing the closure in a specific position. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the enclosure of Kehl-Hart with a magnetic means as taught by Dubery in order to maintain the closure in a specific position. The use of the magnetic means to hold the closure closed instead of open is deemed an obvious reversal of parts well within the skill of the ordinary artisan.

As to claim 9, the enclosure of Kehl-Hart-Dubery discloses a magnet (Dubery, 40).

As to claim 10, the enclosure of Kehl-Hart-Dubery discloses a metallic portion (Dubery, 34).

Regarding claim 11, the enclosure of Kehl-Hart-Dubery as applied to claim 1 above further discloses a rectangular cavity (Kehl, Figure 1) and a raised lip (Kehl, 48 as modified by Hart).

As to claim 12, the enclosure of Kehl-Hart-Dubery discloses a magnet (Dubery, 40) and a Ferro-magnetic portion (Dubery, 34).

As to claim 13, the enclosure of Kehl-Hart-Dubery discloses a flush top (Kehl, Figure 5).

As to claim 14, since no structure is defined for the guitar string changing tool case, the examiner interprets the guitar string changing tool case to be of any size and shape, and as such, the enclosure of Kehl-Hart-Dubery is capable of embedment in a very large case. Such an embedment is considered an intended use.

2. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hart in view of Kehl and Dubery et al.

Regarding claim 1, Hart discloses an enclosure (Figure 1) with a cavity (A) and a lid (C) sized to cover the cavity. Hart does not disclose the claimed securing means or the claimed pivot means.

Kehl discloses a pivot means (28, 32) with the fulcrum arrangement claimed by the applicant. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the enclosure of Hart with a pivot means as taught by Kehl in order to reduce the parts required to manufacture the enclosure.

The enclosure of Hart-Kehl does not disclose the claimed securing means.

Dubery et al discloses an enclosure (10, 12) with a magnetic means (40, 34) for securing the closure in a specific position. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the enclosure of Hart-Kehl with a magnetic means as taught by Dubery in order to maintain the closure in a specific position. The use of the magnetic means to hold the closure closed instead of open is deemed an obvious reversal of parts well within the skill of the ordinary artisan.

As to claim 2, the enclosure of Hart-Kehl-Dubery, as applied to claim 1, meets all limitations claimed by the applicant except for the lip raised from the bottom of the cavity. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the container of Hart-Kehl-Dubery with a lip that is raised from the bottom of the cavity in order to enable the deep-drawing and/or stamping method of fabrication, thereby reducing fabrication costs.

As to claim 3, the enclosure of Hart-Kehl-Dubery, as applied to claim 2, discloses a flush lid (Hart, Figure 3).

As to claim 4, the enclosure of Hart-Kehl-Dubery, as applied to claim 2, does not disclose the securing means attached to the lip. It would have been obvious to one of ordinary skill in the art at the time the invention was made to attach the securing means of Hart-Kehl-Dubery at the lip since the lip is in contact with the edge of the closure and Dubery teaches the desire to have the securing means attached to the edge of the closure.

As to claim 5, the enclosure of Hart-Kehl-Dubery, as applied to claim 2, discloses a contiguous lip extending around substantially one half the enclosure (Hart, Figure 1, as modified with the pivot means of Kehl).

As to claim 6, the enclosure of Hart-Kehl-Dubery, as applied to claim 2, discloses a pivot means integral with the terminal edges of the lip (Kehl, Figure 3).

As to claim 7, the enclosure of Hart-Kehl-Dubery, as applied to claim 2, discloses the claimed invention except for the rectangular shape. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary

skill in the art to form the enclosure of Hart-Kehl-Dubery with a rectangular shape because applicant has not disclosed that a rectangular shape provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected applicant's invention to perform equally well with a circular shape because the pivot points and fulcrum feature would function the same.

As to claim 8, Kehl teaches a lip along a longitudinal side and half of each traverse side (Kehl, Figure 3).

As to claim 9, the enclosure of Hart-Kehl-Dubery discloses a magnet (Dubery, 40).

As to claim 10, the enclosure of Hart-Kehl-Dubery discloses a metallic portion (Dubery, 34).

Regarding claim 11, the enclosure of Hart-Kehl-Dubery, as applied to claim 7 above, discloses the claimed invention.

As to claim 12, the enclosure of Hart-Kehl-Dubery discloses a magnet (Dubery, 40) and a Ferro-magnetic portion (Dubery, 34).

As to claim 13, the enclosure of Hart-Kehl-Dubery discloses a flush top (Kehl, Figure 5).

As to claim 14, since no structure is defined for the guitar string changing tool case, the examiner interprets the guitar string changing tool case to be of any size and shape, and as such, the enclosure of Hart-Kehl-Dubery is capable of embedment in a very large case. Such an embedment is considered an intended use.




**Conclusion**

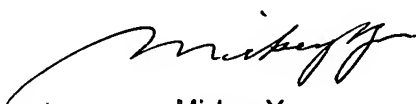
3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kessel Jr., Hanna et al, Shefler et al, and Schurman disclose containers with compartments in the closure. Lauer discloses a guitar string changing tool case.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pickett whose telephone number is 703-305-8321. The examiner can normally be reached on Mon-Fri, 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 703-308-2672. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

  
Gregory Pickett  
Examiner  
June 12, 2003

  
Mickey Yu  
Supervisory Patent Examiner  
Group 3700